

## FACTSHEET

**TITLE: SPECIAL PERMIT NO. 1985**, requested by Brian D. Carstens and Associates on behalf of Alonzo and Marijane Athey, to allow the reconstruction and expansion of a nonconforming use, on property generally located at 9400 Yankee Hill Road.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 09/04/02  
Administrative Action: 09/04/02

**STAFF RECOMMENDATION:** Denial

**RECOMMENDATION:** Conditional approval, with amendments as requested by the applicant (7-1: Steward, Krieser, Bills-Strand, Larson, Taylor, Newman and Schwinn voting 'yes'; Carlson voting 'no'; Duvall absent).

### FINDINGS OF FACT:

1. The staff recommendation to **deny** this special permit is based upon the "Analysis" as set forth on p.5-7, concluding that the proposed reconstruction and expansion of Athey Painting, Inc., a nonconforming use, does not conform with the directives in the Comprehensive Plan. If approved, this special permit will in effect perpetuate a nonconforming use in the midst of an existing residential area.
2. The applicant's testimony and other testimony in support is found on p.10-11. The applicant's representative submitted a petition in support bearing signatures of 72 residents of Cheney (p.31-34).
3. The record consists of eight letters in support of reconstruction and expansion (p.35-44).
4. The record consists of five letters in support of reconstruction but opposed to the expansion or any increase in size of the building (p.46-49).
5. There was no testimony in opposition.
6. The applicant requested that Conditions #1.1.3 and #1.2.1 be deleted in order to allow a waiver of the paving requirement and a waiver of the screening requirements. (See Minutes. p.11-12).
7. On September 4, 2002, a motion to approve the special permit, limited to the existing footprint, failed 4-4 (Steward, Taylor, Carlson and Newman voting 'yes'; Krieser, Bills-Strand, Larson and Schwinn voting 'no'; Duvall absent). Also see Minutes, p.12.
8. On September 4, 2002, the Planning Commission disagreed with the staff recommendation and voted 7-1 to recommend conditional approval of the reconstruction and expansion, with amendments deleting Condition #1.1.3 and Condition #1.2.1, as requested by the applicant (Commissioner Carlson dissenting and Duvall absent).
9. The Site Specific conditions of approval required to be completed prior to scheduling this application on the City Council agenda have been submitted by the applicant, approved by the reviewing departments and the revised site plan is attached (p.15-16).

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** September 17, 2002

**REVIEWED BY:** \_\_\_\_\_

**DATE:** September 17, 2002

**REFERENCE NUMBER:** FS\CC\2002\SP.1985

**LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT**

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**P.A.S.:** Special Permit #1985

**DATE:** August 20, 2002

**\*\*As Revised by Planning Commission: 9/04/02\*\***

**PROPOSAL:** A Special Permit to allow reconstruction and expansion of a non-conforming use (27.63.280).

**WAIVER**

**REQUEST:** Waiver of screening along side yards  
Waiver of pavement on the parking lot

**LAND AREA:** Approximately 2.51 acres.

**CONCLUSION:** The proposed reconstruction and expansion of Athey Painting, Inc., a nonconforming use, does not conform with the directives in the Comprehensive Plan. If approved, this Special Permit will in effect perpetuate a nonconforming use in the midst of an existing residential area.

**RECOMMENDATION:**

Denial

**Conditional Approval (\*\*Per Planning Commission: 9/04/02\*\*)**

**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** Lot 67, Irregular Tract in the Southwest Quarter of Section 23, Township 9 North, Range 7 East of the 6<sup>th</sup> P.M., Lancaster County, Nebraska.

**LOCATION:** 9400 Yankee Hill Road, Cheney, Nebraska

**APPLICANT:** Alonzo A. and Marijane J. Athey  
5044 Rentworth Drive  
Lincoln, NE 68515

**OWNER:** Alonzo A. and Marijane J. Athey  
5044 Rentworth Drive  
Lincoln, NE 68515

**CONTACT:** Brian Carstens  
Brian Carstens and Associates  
601 Old Cheney Road, Suite 'C'  
Lincoln, NE 68521

**EXISTING ZONING:** R-2 and AG

**EXISTING LAND USE:** The existing building was destroyed by a fire.

**SURROUNDING LAND USE AND ZONING:**

North:	Highway 2 and Agricultural uses- farm utility buildings, residential	AG
South:	Residential	R-2
East:	Agricultural and residential	R-2 and AG
West:	Residential	R-2

**HISTORY:** This property was converted from AA Rural and Public Use District to AG Agriculture District during the 1979 Zoning Update. The west 110.0 feet of the site was converted from AG Agriculture District to R-2 Residential District with the approval of Change of Zone #2795 on March 11, 1994. The property has had several different nonconforming uses including a trucking/excavating company, a bus facility for a tour and travel company, and most recently Athey Painting. Building and Safety Department has stated that Athey Painting is considered 'General Commercial Use,' a nonconforming use under L.M.C. 27.61.010.

**COMPREHENSIVE PLAN SPECIFICATIONS:** The recently adopted 2025 Land Use Plan designates this area and surrounding area as Urban Residential. The Southeast Lincoln/Highway 2 Subarea Plan designates this area as Urban Residential.

P. F11. Housing Opportunities: A range of affordable housing types should be identified, with opportunities ranging from urban lofts, flats, townhouses, and condominiums in the urban core to residential acreages in rural parts of the County.

P. F11. Small Business: Recruitment and promotion of our community must include the role of businesses with 50 or fewer employees. We need to foster new, and maintain existing small businesses.

P. F15. Quality of Life Assets: Neighborhoods remain one of Lincoln's great strengths and their conservation is fundamental to this plan... The Comprehensive Plan is the basis for zoning and land development decisions. It guides decisions that will maintain the quality and character of the community's established neighborhoods.

P. F18. Residential Neighborhoods: Construction and renovation within the existing urban area should be compatible with the character of the surrounding neighborhood.

P. F38. General Principles For All Commercial and Industrial Uses:

Commercial and industrial districts in Lancaster County shall be located:

- within the City of Lincoln or incorporated villages
- outside of saline wetlands, signature habitat areas, native prairie and floodplain areas (except for areas of existing commercial and industrial zoning)
- where urban services and infrastructure are available or planned for in the near term
- in sites supported by adequate road capacity – commercial development should be linked to the implementation of the transportation plan
- in areas compatible with existing or planned residential uses
- in areas accessible by various modes of transportation (i.e. automobile, transit and pedestrian)
- so that they enhance entryways or public way corridors, when developing adjacent to these corridors
- in a manner that supports the creation and maintenance of green space as indicated in the environmental resources section of this Plan

P. F65. Residential: Preservation of these homes for use by future generations will protect residential neighborhoods and allow for many households to attain the dream of home ownership.

A safe residential dwelling should be available for each citizen.

**UTILITIES:** This site is outside the city corporate limits and therefore does not receive City of Lincoln utility service. It is serviced by Cheney S.I.D. #5, and receives Lancaster County rural water service.

**TOPOGRAPHY:** The property slopes slightly to the north.

**TRAFFIC ANALYSIS:** In both the “Existing” and the “Future Street and Road Network Functional Classification” Yankee Hill Rd. is classified as a Rural Minor Collector at the this site.

**PUBLIC SERVICE:** This site is outside the city corporate limits and therefore does not receive City of Lincoln services. Services that are received include Lancaster County Engineering, Rural Fire services, and services from the Lancaster County Sheriff.

**REGIONAL ISSUES:** Cheney is a residential area. It is also an entryway into the City of Lincoln. The approval of this Special Permit will be similar to approving a spot Change of Zone to commercial. The approval will also discourage residential development on the abutting land.

**ENVIRONMENTAL CONCERNS:** The Lancaster County Health Department has responded with concerns about potential environmental hazards associated with the nonconforming use. The comments are as follows:

- The LLCHD has concerns regarding the storage or use of hazardous materials and/or chemicals on this property. The applicant indicates that the use of the property will consist of contractor's offices and ware-yards only. There is no mention of what types or quantities of chemicals/materials will be stored on-site.
- While the LLCHD does recognize the previous uses of this property, the LLCHD requests, in writing, a complete list of chemicals, paints, and hazardous materials and their quantities that will be stored on-site. Therefore, at this time, the LLCHD cannot make an accurate assessment of possible negative public health impacts and requests that action on the special permit be delayed until we have the opportunity to conduct a risk assessment based upon what will be stored on-site.

**AESTHETIC CONSIDERATIONS:** The structure required for this nonconforming use is commercial in nature and does not coincide with the adjacent residential aesthetics. It will be a large warehouse in the center of a residential area.

**ALTERNATIVE USES:** The alternative uses for this site are the uses permitted by the zoning districts R-2 and AG.

**ANALYSIS:**

**OVERVIEW:** The applicant has requested a special permit for the reconstruction and expansion of a non-conforming use. Two waivers are requested, a waiver of screening along side yards, and a waiver of pavement on the parking lot. In addition, a request to include in the conditions of the special permit that future use shall be limited to "contractors offices and ware-yards only" has been requested.

This site is a pre-existing, non-conforming general commercial use located in the midst of a residential area. It is not in conformance with the Lincoln Lancaster County Comprehensive Plan, as the area is delineated as urban residential, not commercial. As a non-conforming use that has been destroyed by fire this request is not the only option for the applicant. In addition, granting this special permit will allow a non-conforming use to continue indefinitely and which is refuted by 27.61.050, "Restoration after Damage...When the use of a building is nonconforming as defined in this chapter and such a building is damaged by a fire, explosion, act of God, or the public enemy to the extent of more than sixty percent of its fair market value, it shall not be restored except in conformity with the regulations of the district in which the building is located, or in conformance with the provisions of Chapter 27.75 or Section 27.63.280," (page 27-138).

The approval of this Special Permit would perpetuate the nonconforming use, and this is refuted by the very definition of a "nonconforming use" as "the use of any building... which was existing and lawful immediately prior to the effective date of this title and which does not conform with the provisions of this title.." (P. 27-11, Title 27 of L.M.C.).

The intent of the nonconforming definition in the zoning code is to identify that a use is not permitted in a specific district, yet since it was there previous to a zoning district update by the City it is allowed until such circumstances occur to destroy or eliminate the use, its existing structures, and the business therein. When those circumstances do occur, as they have with the fire at Athey Painting, the right for a nonconforming use to be conducted there is withdrawn, thereby encouraging a permitted use of the district to be conducted on the site.

The negative impacts on the adjacent residential area of this nonconforming use far surmount any reason to approve this Special Permit. Future residential development on this site will be discouraged, as will residential development adjacent to this site.

**1. SPECIAL PERMIT REQUIREMENTS FOR EXPANSION OF A NON-CONFORMING USE PER L.M.C. 27.63.280:**

In all zoning districts, except the B-5 zoning district, a special permit may be granted to authorize the issuance of a building permit to permit the enlargement, extension, conversion, reconstruction or structural alteration of any building located upon premises, the use of which constitute a nonconforming use. In consideration of applications for such special permits, the following criteria shall be given specific consideration:

**(a) Effects on adjacent property, traffic, city utility service needs:**

The approval of the reconstruction, and expansion of this non-conforming use does not add to the value of the adjacent properties. Truck traffic resulting from employees and customers of Athey Painting will continue, and perhaps increase as a result of the expansion of the structure.

**(b) Density of land use zoning for the subject property and adjacent property:**

The area in which the subject property is located is identified as a high density area of land use, specifically urban residential. It is important to note that the approval of this special permit would allow the continuation of a non-conforming use into the future. As L.M.C. 27.61.010 of Chapter 27.61 "Nonconforming Uses and Nonstandard Uses" states, the permitted future uses would include general commercial, retail sales and service, office buildings, multiple-family residential, and single-and two-family residential. The paint operation could be converted to any general commercial, retail sales and service, or office building without a public hearing. Retail use generates a substantial amount of traffic. Approval of the special permit would not be in conformance with the density guidelines of the Comprehensive Land Use Plan.

**(c) The degree of hardship upon the applicant which would be caused by failure to grant such a permit. (p.27-152).**

The applicant has stated in writing that the denial of this special permit would be an extreme hardship. "To relocate my business in Lincoln is not an option due to the amount of equipment I need to store. It would be an incredible burden to take on the debt necessary to purchase a parcel large enough to run my business. I am 55 years old, too young to retire and too old to take on a huge debt."

Special Permits are assigned to the land and are not restricted to the present applicant. To be economically fair to other similar businesses this business should be located on land that is zoned appropriately.

Planning Commission review and City Council approval is required for this use.

2. CITY-COUNTY HEALTH DEPARTMENT RESPONSE: The accompanying documentation **indicates** that the property in question has been a non-conforming use since 1979. The LLCHD agrees with this statement concerning the current zoning and the past uses of this property.

- The LLCHD has concerns regarding the storage or use of hazardous materials and/or chemicals on this property. The applicant indicates that the use of the property will consist of contractor's offices and ware-yards only. There is no mention of what types or quantities of chemicals/materials will be stored on-site.
- While the LLCHD does recognize the previous uses of this property, the LLCHD requests, in writing, a complete list of chemicals, paints, and hazardous materials and their quantities that will be stored on-site. Therefore, at this time, the LLCHD cannot make an accurate assessment of possible negative public health impacts and requests that action on the special permit be delayed until we have the opportunity to conduct a risk assessment based upon what will be stored on-site.

3. PUBLIC WORKS RESPONSE: The Public Works and Utilities Department has no objections to waiving the side yard screening requirements. They have no objection to waiving the requirement for parking lot paving due to the fact that Yankee Hill Road at this location is currently a gravel road.

4. CITY PARKS AND RECREATION RESPONSE: The Parks and Recreation Department recommends that street trees and screening be provided along Highway 2.

5. COUNTY ENGINEER RESPONSE: The County Engineer has no objections to this special permit.

6. BUILDING AND SAFETY DEPARTMENT RESPONSE: We believe this use should be classified as a General Commercial category of use under Section 27.61.010 LMC. Even if any prior uses were less restrictive, Section 27.61.010 requires that if a nonconforming use has been changed to a more restrictive use, it shall not thereafter be changed to a less restrictive use.

7. WAIVERS: The applicant requests two waivers. A waiver of screening along side yards, and a waiver of pavement on the parking lot. The Parks and Recreation Department recommends that street trees and screening be provided along Highway 2. The Planning Department recommends screening in accordance with the City of Lincoln Design Standards, Title 3.50. Therefore both departments recommend denial of waiving the screening.

The Planning Department recommends paving the parking lot, in accordance with the City of Lincoln Design Standards, Chapter 3.45, Section 3.5.

## **CONDITIONS:**

Should the Planning Commission choose to recommend approval the following are suggested conditions:

Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department office and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:

1.1 Revise the site plan to show:

1.1.1 Symbols that are not as similar to each other as they are currently in the legend on page 1 of 2 for existing wood and chain-link fences

1.1.2 A 25' Front Yard Setback on the north lot line

~~1.1.3 Parking lot conforms to design standards~~ **(\*\*Per Planning Commission, 9/04/02, at the request of the Applicant\*\*)**

1.1.4 Add utility easements required by L.E.S.

1.2 Revise the landscape plan to show:

~~1.2.1 Adequate screening and landscaping to meet the City of Lincoln Design Standards~~ **(\*\*Per Planning Commission, 9/04/02, at the request of the Applicant\*\*)**

2. This approval permits the reconstruction and expansion of a nonconforming use.

~~Denial of waiver to parking lot design standards.~~ Approval of the waiver of parking lot paving; however, the handicap stall will be paved. **(\*\*Per Planning Commission, 9/04/02, at the request of the Applicant\*\*)**

~~Denial of waiver to landscape screening.~~ Approval of the waiver of landscape screening. **(\*\*Per Planning Commission, 9/04/02, at the request of the Applicant\*\*)**

General:

3. Before receiving building permits:

3.1 The construction plans shall comply with the approved plans.

STANDARD CONDITIONS:

4. The following conditions are applicable to all requests:
  - 4.1 Before occupying the building all development and construction shall have been completed in compliance with the approved plans.
  - 4.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.
  - 4.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
  - 4.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
  - 4.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the applicant.

Prepared by:

Abigail Davis  
Planner

# SPECIAL PERMIT NO. 1985

## PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 4, 2002

Members present: Steward, Krieser, Bills-Strand, Larson, Taylor, Carlson, Newman and Schwinn; Duvall absent.

Staff recommendation: Denial.

Abigail Davis of the Planning staff submitted four additional letters for the record: one in support, one in support without expansion, and two in opposition.

### Proponents

1. **Brian Carstens** testified on behalf of the applicant, **Athey Painting**. On July 26, 2002, the Athey Painting existing structure was hit by lightning. Currently, it is a nonconforming use which the applicant has occupied for six years. It had been a bus terminal and excavating company prior to that time. He is requesting a special permit to reconstruct and expand the nonconforming use. It has been a nonconforming use since the early 1970's. The existing building was about 6,000 sq. ft. and the applicant is now requesting 10,800 sq. ft. The increase would allow him to park more vans inside the building as well as allow for deliveries. Athey Painting does a lot of finishing of cabinetry, doors and some trim. With the larger building, they can bring the trucks inside to unload to get them out of the weather.

The applicant is requesting to waive paving of the parking lot. It is a gravel parking lot and has been forever. Yankee Hill Road is currently graveled. With regard to the screening waiver, Carstens advised that the east and west property lines have some screening in the fence line today--volunteer trees--which is adequate during the summer time. The applicant has been there for over six years.

The applicant had a community meeting with about 50 people in attendance with overwhelming support for him to rebuild, but there was some concern about the expansion. The original application by the applicant suggested a condition that the building only be used for contractor, sales and storage yards, but the City Attorney is not allowing this type of condition on a special permit.

Carstens submitted a petition signed by 72 residents of Cheney in support.

There is a single family house to the east and a small detached garage, and then the ground to the west is vacant because the house was condemned and removed. The Catholic Church is to the west, with Spanel Engines (zoned I-1) further west, then three residences and residences on the west side of 91<sup>st</sup>. There is single family immediately across the street. The owner directly south has signed the petition in support.

Carlson asked the applicant to respond to the letters with concern about the expansion. Carstens indicated that the applicant would consider not expanding as an option as opposed to a denial. He would rather have a larger building but would rather have the smaller building than no building.

Steward confirmed that the proposed expansion is basically to the north. Carstens indicated that it is to the north and 12' to the west. There is no one in that direction. Steward asked whether the old building was totally razed. Carstens advised that the perimeter walls had to be pulled down during the fire. It was a tilt-up concrete building. They will be constructing a steel building.

**2. Gayle Hanshaw**, President of **Cheney Community Improvement Program**, submitted a letter from the CIP stating that the majority of the members of the community are in support. They did voice the potential concerns, but after further review they are still in support. The property has been in commercial use for quite some time. There was a salvage yard to the west for 50 years.

**3. Lonnie Athey** of **Athey Painting**, the applicant, testified, stating that he purchased the property six years ago as a commercial building for \$268,000. He can't afford to buy property to build upon in the city. He walked the Cheney community and there were only four people who had objections. Athey assured that the new building will be much better looking than what burned down.

There was no testimony in opposition.

#### Staff questions

Carlson asked staff whether conditions could be crafted to allow rebuilding on the existing footprint. Ray Hill of Planning staff believes the conditions could be worded such that the building be limited to 6,000 sq. ft. The applicant is requesting an expansion plus a special permit to reconstruct a nonconforming use. The Commission could limit the approval to reconstruct a nonconforming use. Steward does not believe that 6,000 sq. ft. would guarantee reconstruction of the footprint. Hill stated that if there is any change to this site plan it would have to be amended and could be amended administratively if it is limited to 6,000 sq. ft. This special permit approves a specific site plan.

Schwinn wondered whether there was any consideration given to rezoning this area to make it a conforming use. Hill suggested that the Commission had that opportunity during the update of the Comprehensive Plan. The staff does believe that it is an entryway into the community. If you do approve this particular special permit, it does leave the question as to whether the community should consider rezoning. The staff believes it will have some impact on whether the rest of the land will be developed as residential.

Schwinn noted a large lot to the west. Have we considered a subarea study for the Cheney area? Davis advised that Cheney is included in the Southeast Lincoln Highway 2 Subarea Plan; however, it recognizes the existing uses. The site is shown as Urban Residential on the subarea plan.

## Response by the Applicant

Carstens explained that a few of the Cheney property owners had hired him during the time of the Comprehensive Plan amendment for the shopping center to attempt to come up with a mixed use project and just could not get community consensus. That is why it was left alone in the subarea plan.

Carstens requested that Condition #1.1.3 be deleted and that the waiver of paving be allowed. They will agree to pave the handicap spot.

Carstens also requested that Condition #1.2.1 be deleted to allow the waiver of screening as previously discussed.

Public hearing was closed.

## **ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

September 4, 2002

Larson moved approval, with conditions, with the amendments as requested by the applicant, seconded by Bills-Strand.

Carlson moved to amend to require the reconstruction on the existing footprint, with the amendments to allow the waivers, seconded by Steward.

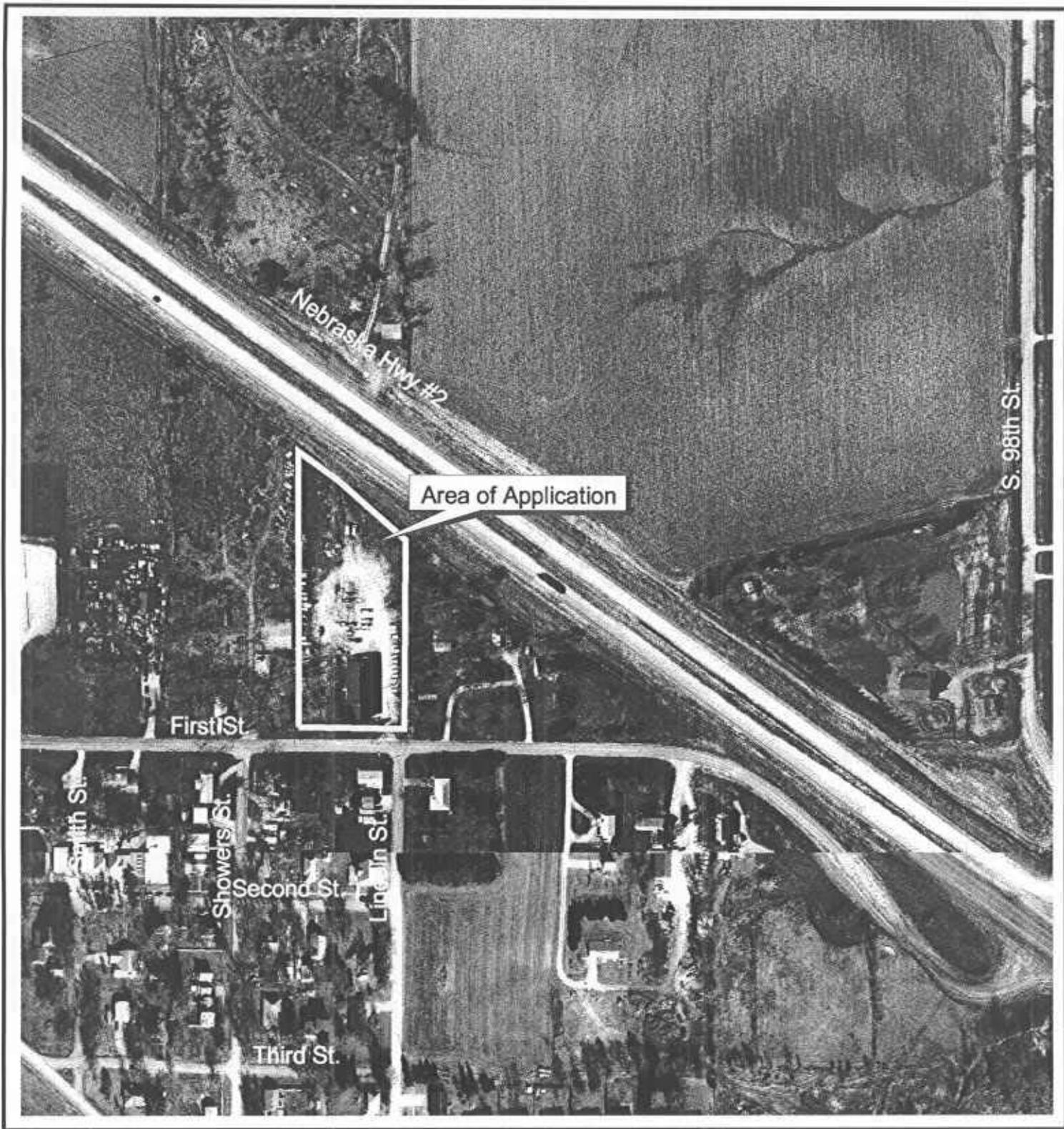
Carlson is sympathetic to the idea of rebuilding what was already there and he knows it may not be in the same context, but it is analogous to an older area that burned down that is nonconforming and the neighbors think it could work. He worries about the precedence by approving the expansion.

Bills-Strand commented that if the majority of the people signed the petition in support, she will vote for the people that live there.

Motion to amend failed 4-4: Steward, Taylor, Carlson and Newman voting 'yes'; Krieser, Bills-Strand, Larson and Schwinn voting 'no'; Duvall absent.

Larson believes Athey has been a great support to the community and he believes it is a modest expansion that is being requested.

Main motion for conditional approval, with amendments as requested by the applicant, carried 7-1: Steward, Krieser, Bills-Strand, Larson, Taylor, Newman and Schwinn voting 'yes'; Carlson voting 'no'; Duvall absent,



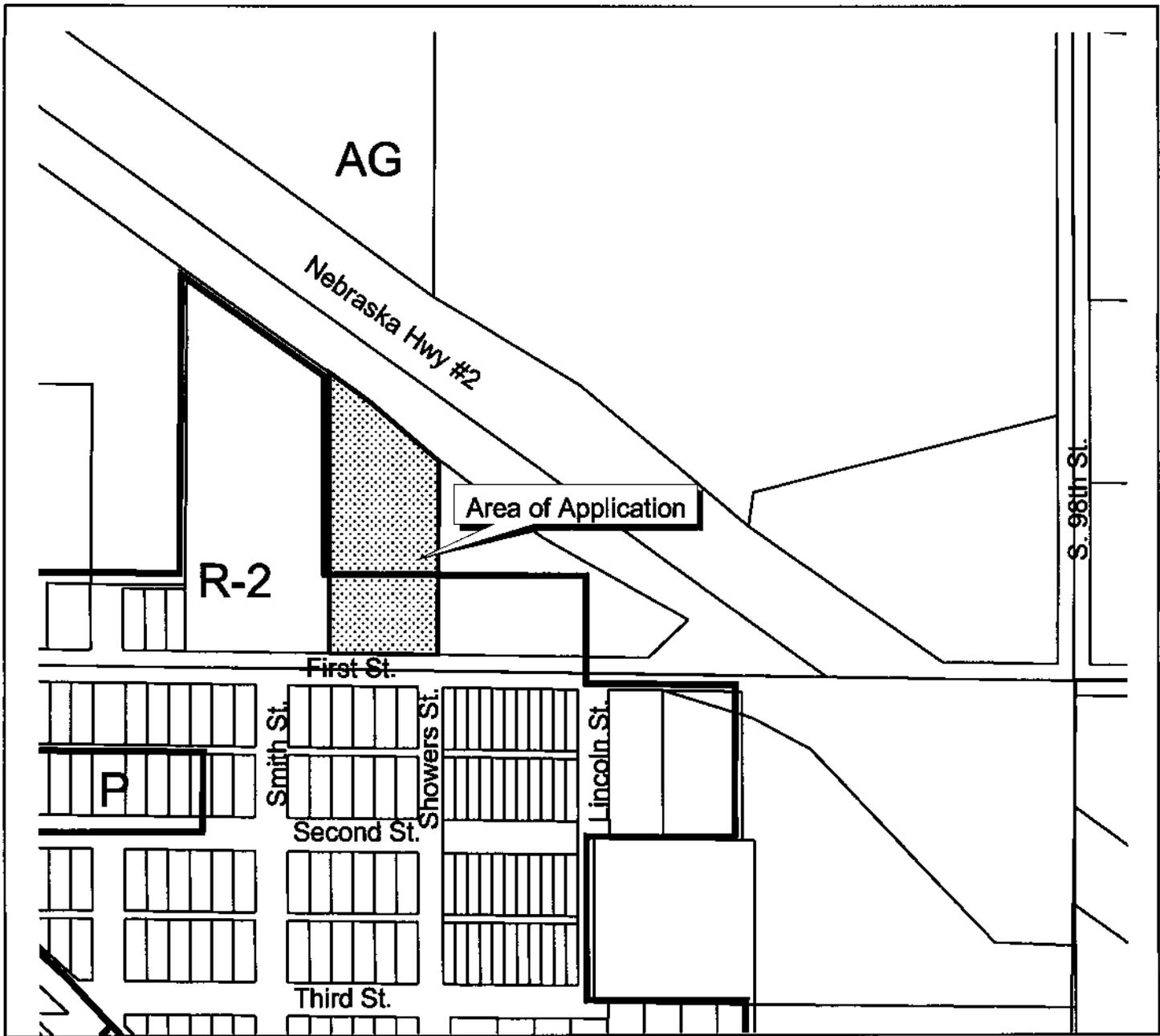
**Special Permit #1985  
S. 94th & Yankee Hill Rd.**



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Photograph Date: 1999

Lincoln City - Lancaster County Planning Dept.

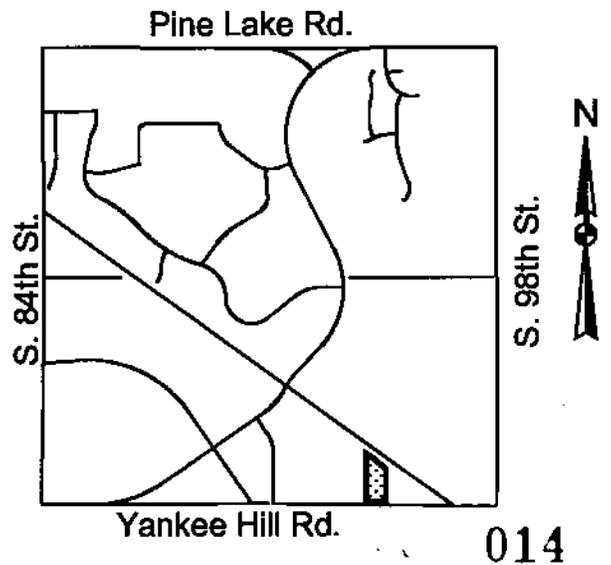
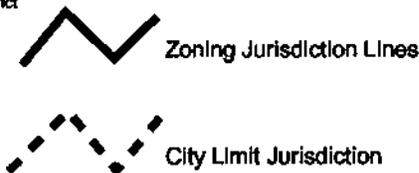


**Special Permit #1985  
S. 94th & Yankee Hill Rd.**

**Zoning:**

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile  
Sec. 23 T9 N R7E



HIGHWAY

NO. 2

15' UTILITY EASEMENT

25' FRONT YARD SETBACK

LOT 67  
2.51 AC

LOT 35

SNYDER PROPERTY

EXISTING GRAVEL PARKING

PROPOSED BUILDING

60.00'

EXISTING CONCRETE TO BE REMOVED

65'+/-

LOT 65

SCHAARTZ PROPERTY  
EXISTING SINGLE FAMILY RESIDENCE

RECEIVED

SEP - 9 2002

LANCASTER CITY/LANCASTER COUNTY  
PLANNING DEPARTMENT

EXISTING SHED 20x25

EXISTING GRAVEL DRIVE

EXISTING BUILDING 48x125'

EXISTING GRAVEL PARKING

NEW 5' CONCRETE SLAB

EXISTING CONCRETE

15' UTILITY EASEMENT

EXISTING DRIVEWAY LOCATION TO REMAIN

EXISTING DRIVEWAY LOCATION TO REMAIN

25' FRONT YARD SETBACK

YANKEE

HILL ROAD

015

HIGHWAY

NO. 2

LOT 67  
2.51 AC

LOT 35

SNYDER PROPERTY

PROPOSED BUILDING

EXISTING GRAVEL PARKING

EXISTING DECIDUOUS TREE MASS TO REMAIN (ELMS & HACKBERRIES)

LOT 65

SCHWARTZ PROPERTY  
EXISTING SINGLE FAMILY RESIDENCE

EXISTING DECIDUOUS TREE MASS TO REMAIN (ELMS & HACKBERRIES)

RECEIVED

SEP - 9 2002

LINCOLN CITY/LANCASTER COUNTY  
PLANNING DEPARTMENT

EXISTING SHED  
20x25'

EXISTING AUSTRIAN PINE  
TO BE REMOVED

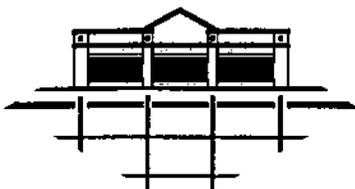
EXISTING AUSTRIAN PINE  
TO REMAIN

FRONT YARD SETBACK  
224.91'

YANKEE

HILL ROAD

016



# BRIAN D. CARSTENS AND ASSOCIATES

LAND USE PLANNING RESIDENTIAL & COMMERCIAL DESIGN

601 Old Cheney Road, Suite C Lincoln, NE 68512 Phone: 402.434.2424

August 8, 2002

Mr. Mike Dekalb  
Interim Planning Director  
Planning Department  
City of Lincoln/ Lancaster County  
555 South 10th Street  
Lincoln, NE 68508

RE: ATHEY PAINTING, INC. 9400 YANKEE HILL ROAD- CHENEY, NE  
SPECIAL PERMIT - RECONSTRUCTION & EXPANSION OF NON-CONFORMING USE

Dear Mike,

On behalf of Alonzo A. & Marijane J. Athey, of Athey Painting, Inc. we submit the following Special Permit for your review. As you may be aware, Athey Painting's building was struck by lightning on July 26th. The building was totally destroyed by fire. Please refer to attached pictures.

The subject property has been a pre-existing, non-conforming use since the implementation of the Zoning Ordinance in 1979. Athey Painting purchased the property in October of 1996. The building has had several uses over the years, ranging from a trucking/ excavating company, as well as a bus facility for a local tour and travel company, immediately prior to Athey Painting currently located at the site.

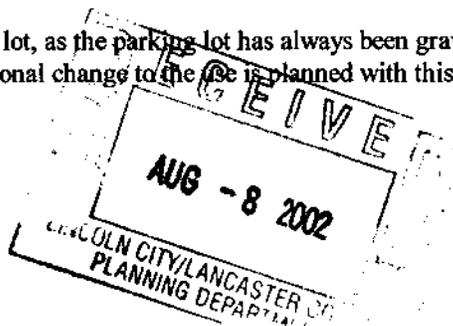
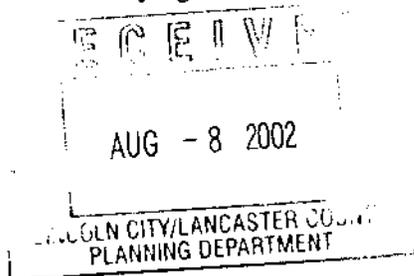
The property is currently zoned 'R-2'. We had talked with several neighbors in the area, as well as Cheney representatives, and they have no objections to Athey Painting rebuilding at the site. They do not want any additional uses on the property, other than Athey Painting. Therefore, we have limited the use of the property to contractor's offices and ware-yards only. No other retail type of uses can occupy the land. We feel this restriction will protect the adjacent property owners, as well as the Village of Cheney.

We did look at preserving the existing structure and reconstructing a new roof structure. However, we feel a new building will be far better for the adjacent neighbors than a rehabilitated building.

We are preparing to hold a meeting with the residents of Cheney prior to the Planning Commission public hearing, and gather further comments as well as consider any additional suggestions from them.

We are requesting the following waivers with this applications:

1. Waiver of screening along the side yards, as the site is currently existing in this manner. There are mature deciduous trees along most of the fence line on the east and west property lines
2. Waiver pavement on the parking lot, as the parking lot has always been gravel. Yankee Hill Road is currently a gravel road. No additional change to the use is planned with this special permit.



Page 2

Please contact me if you have any further questions or comments.

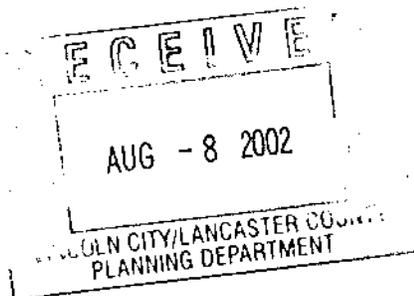
Sincerely,



Brian D. Carstens

cc: Lonnie Athey, Athey Painting

ENCLOSURES: 16 Copies of Sheet 1 of 2  
6 Copies of Sheet 2 of 2  
Application for a Special Permit  
Certificate of Ownership  
8 1/2" x 11" Reductions  
Application fee of \$585.00  
Pictures of Building (prior and after fire)



018

August 15, 2002

To whom it may concern:

My name is Lonnie Athey. My wife and I have owned and operated Athey Painting for 35 years. A little over five years ago I was fortunate enough to purchase about two acres of ground in Cheney, Nebraska to relocate my business. Abutting my property to the east is a farm house and barn, to the north Hwy 2, to the west several acres of vacant ground, then the Catholic church and parsonage, a nice large commercial building and new home. Across the street is Saxton's Market with some new self storage buildings. Since moving to Cheney my business has grown to include 21 vans, four bucket trucks, a scissor lift, a sand blaster & compressor, a spray booth, shop, offices and thirty employees.

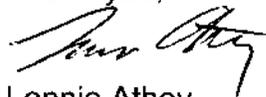
On Friday July 26, 2002 our business was struck by lightening. My building was nearly a total loss, not to mention the thousands of dollars in contents and inventory.

To relocate my business in Lincoln is not an option due to the amount of equipment I need to store. It would be an incredible burden to take on the debt necessary to purchase a parcel large enough to run my business. I am 55 years old, too young to retire & too old to take on a huge debt.

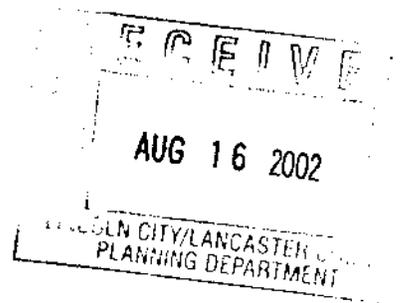
I have visited with my neighbors and they have indicated they would sooner see me build a new building, which would cost less than to rebuild. I did have some insurance, however not nearly enough to cover the cost to rebuild.

I am anxious to continue operating my business. Therefore, I am respectfully requesting a "Special Permit to reconstruct and expand a non-conforming use". If I would not be able to rebuild in my present location, it would be a tremendous hardship on me and my business.

Thank you,



Lonnie Athey  
Athey Painting



# ATHEY PAINTING INC

9400 YANKEE HILL RD LINCOLN NE 68526-9482 VOICE: (402) 421-2612 FAX: (402) 421-2620

August 27, 2002

Mr. Chris Schroeder  
Lincoln-Lancaster County Health Department  
3410 'N' Street  
Lincoln, NE 68510

RE: ATHEY PAINTING- SPECIAL PERMIT #1985

Dear Chris,

I have compiled a list of paints, chemicals and hazardous chemicals that we use in our daily operation, as per your request in your letter dated August 16, 2002.

INTERIOR-

5-10 gallons of lacquer sealer/ finish  
6-8 gallons of stain- stored in metal fire cabinet  
20-25 gallons of waterborne paint

EXTERIOR-

55 gallons of mineral spirits  
55 gallons of lacquer thinner  
55 gallon drum for solvent waste  
Static ground cable and posted flammable material signage

Our hazardous waste material is disposed through:

W.S. Supplies  
P.O. Box 114  
Woodbine, IA 51579.

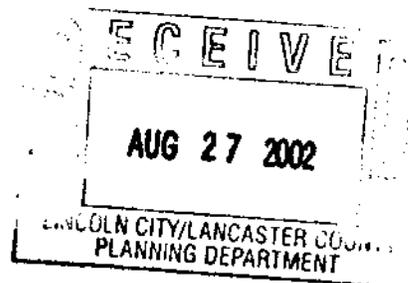
Please note that our painters pick up paints, stains, lacquers/ sealers used on the job sites, on the way to the job sites. Some supplies are also delivered directly to the job site by the supplier. The items listed above are for the times we paint or finish doors or trim at the shop and not at the construction site.

Please contact me if you have further questions.

Sincerely,



Lonnie Athey



020

**LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT  
INTER-OFFICE COMMUNICATION**

**TO:** Abby Davis

**DATE:** August 16, 2002

**DEPARTMENT:** Planning

**FROM:** Chris Schroeder

**ATTENTION:**

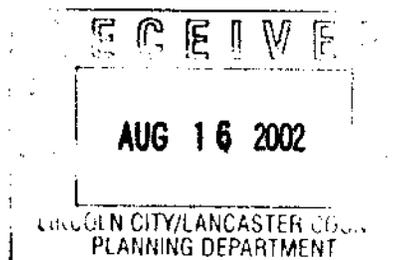
**DEPARTMENT:** Health

**CARBONS TO:** Bruce Dart, Director  
EH File  
EH Administration

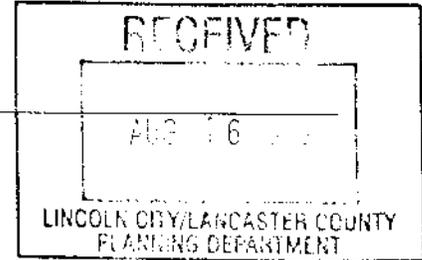
**SUBJECT:** Athey Painting, Inc.  
SP #1985

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the application for special permit #1985 with the following noted:

- The accompanying documentation indicates that the property in question has been a non-conforming use since 1979. The LLCHD agrees with this statement concerning the current zoning and the past uses of this property.
- The LLCHD has concerns regarding the storage or use of hazardous materials and/or chemicals on this property. The applicant indicates that the use of the property will consist of contractor's offices and ware-yards only. There is no mention of what types or quantities of chemicals/materials will be stored on-site.
- While the LLCHD does recognize the previous uses of this property, the LLCHD requests, in writing, a complete list of chemicals, paints, and hazardous materials and their quantities that will be stored on-site. Therefore, at this time, the LLCHD cannot make an accurate assessment of possible negative public health impacts and requests that action on the special permit be delayed until we have the opportunity to conduct a risk assessment based upon what will be stored on-site.



M e m o r a n d u m



[REDACTED]

**To:** Abby Davis, Planning Dept.  
**From:** Bruce Briney, Public Works and Utilities  
**Subject:** BB  
Special Permit #1985, Athey Painting  
Waiver of Design Standards to Expand and Reconstruct a Nonconforming Use  
**Date:** August 15, 2002  
**cc:** Nicole Fleck-Tooze  
Randy Hoskins

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the Application for Special Permit #1985 for Athey Painting to waive design standards at 9400 Yankee Hill Road and has the following comments:

- Public Works has no objection to waiving the side yard screening requirements.
- Public Works has no objection to waiving the requirement for parking lot paving due to the fact that Yankee Hill Road at this location is currently a gravel road.

Lancaster

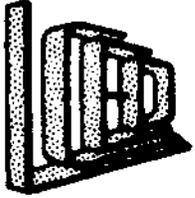
DON R. THOMAS - COUNTY ENGINEER

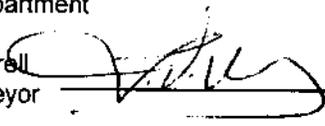
County

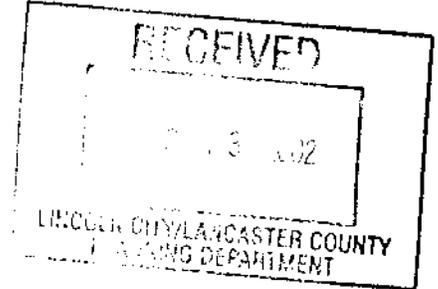
Engineering

Department

DEPUTY - LARRY V. WORRELL  
COUNTY SURVEYOR



DATE: August 12, 2002  
TO: Mike DeKalb  
Planning Department  
FROM: Larry V. Worrell  
County Surveyor   
SUBJECT: Special Permit No. 1985  
Athey Painting, Inc. - 9400 Yankee Hill Road



Upon review, this office has no direct objections to this submittal.

LVW/bml

023



Rick Peo

<rpeo@ci.lincoln.ne.us

s>

08/19/02 03:17 PM

To: ADavis@ci.lincoln.ne.us

cc:

Subject: Re: SP1985, Athey Painting, Inc.

If this is a special permit to expand a nonconforming use the future use of the nonconforming use is governed by L.M.C. sections 27.61.010-050. We cannot restrict future use by the special permit.

ADavis@ci.lincoln.ne.us wrote:

- > Rick,
- >
- > I need a written legal opinion on whether we can place a limit on the use
- > of the property to contractor's offices and ware-yards with the issuance of
- > this special permit. This is regarding the rebuild and expansion of Athey
- > Painting, Inc. on Hwy 2 and Yankee Hill Rd. The neighbors have requested
- > that the applicant do this to ensure the same use in the near future when
- > Athey retires.
- > Thanks,
- > Abby

# Memo



**To:** Abby Davis, Planning Department

**From:** Mark Canney, Parks & Recreation

**Date:** August 19, 2002

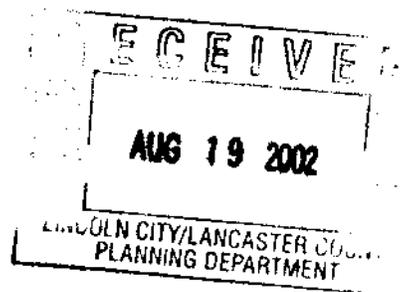
**Re:** Athey Painting, Inc.

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Staff members of the Lincoln Parks and Recreation Department have conducted a plan review of the above-referenced application/proposal and have compiled the following comments:

1. We recommend that street trees and screening be provided along Highway 2.

If you have any additional questions, comments or concerns, please feel free to contact me at 441-8248. Thank you.



025



**Rodger P Harris**

08/21/02 08:22 AM

To: Abigail P Davis/Notes@Notes

cc:

Subject: Re: SP1985, Athey Painting, nonconforming use 

Abby: We believe this use should be classified as a General Commercial category of use under Section 27.61.010 LMC. Even if any prior uses were less restrictive, Section 27.61.010 requires that if a nonconforming use has been changed to a more restrictive use, it shall not thereafter be changed to a less restrictive use.

Abigail P Davis



**Abigail P Davis**

08/20/2002 10:15 AM

To: Rodger P Harris/Notes@Notes

cc:

Subject: SP1985, Athey Painting, nonconforming use

Under the continuation of a nonconforming use (27.61.010), would Athey Painting be considered light industrial or general commercial?

**-LES** INTER-DEPARTMENT COMMUNICATION

DATE August 20, 2002  
TO Abby Davis, City Planning  
FROM Sharon Theobald  
(Ext. 7640)  
SUBJECT DEDICATED EASEMENTS  
DN #84S-94E

Attached is the Special Permit request for Athey Painting, Inc.

In reviewing the dedicated transmission line or other electrical easements shown on this plat, LES does not warrant, nor accept responsibility for the accuracy of any such dedicated easements.

ALLTEL, Time Warner Cable, and the Lincoln Electric System will require the additional easements marked in red on the map.

*Sharon Theobald*



ST/ss  
Attachment  
c: Terry Wiebke  
Easement File

OFFICE\FOD\DEDEAS.Fm



# Lancaster County

County Assessor  
Parcel Photo

InterLinc

Parcel 16-23-400-009-000

Comments



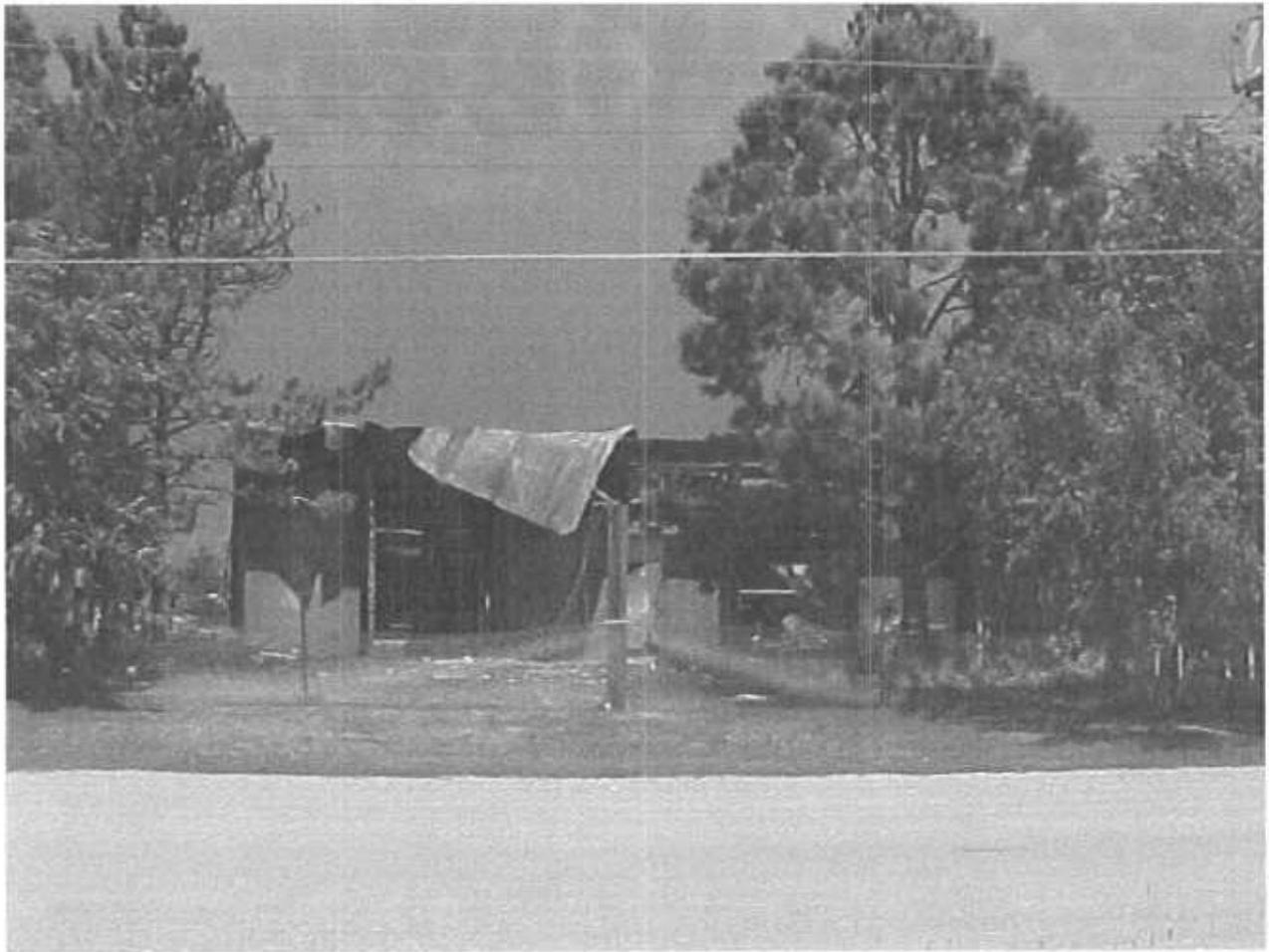
31-Jul-2000

480x640

Property Information  Property Mini-Sheet



028



RECEIVED  
AUG - 8 2002  
LINCOLN CITY/LANCASTER COUNTY  
PLANNING DEPARTMENT



RECEIVED  
AUG - 8 2002  
LANCASTER CITY/LANCASTER COUNTY  
PLANNING DEPARTMENT

PETITION FOR  
SPECIAL PERMIT #1985 FOR ATHEY PAINTING  
9400 YANKEE HILL ROAD, CHENEY, NEBRASKA

We the undersigned residents within Cheney, consent to the Special Permit #1985 for the reconstruction and expansion of the Non-Conforming Use of Athey Painting located at 9400 Yankee Hill Road, Cheney, Nebraska.

NAME	STREET ADDRESS
Robert C. Cokerham	9445 <sup>SE</sup> Yankee Hill
Jane D. Cokerham	9445 FIRST
Jean E. Wunibald	8500 Lincoln St.
Gregory N. Kern	9520 1 <sup>ST</sup> STR
Ken Royal	9631 Yankee Hill Rd
Nancy Royal	9631 Yankee Hill Rd
Dan Miller	8570 Showers
Don Baltz	9310 3rd ST
James D. Dawson	9230 First Street
William M. Reubler	8200 So 91 <sup>st</sup>
Morris Mills	8300 south 91
Frankie Shewalter	8501 So 91 <sup>st</sup> Street
Tommy King	201 E. 2nd St
Joan Moon	8610 Smith
Michael Harold	9310 3rd St
Howard N. Peterson	<del>1827</del> 8711 Showers
Esther R. Way	8711 Showers St.
Lami McLaughlin	8710 Showers St.

PETITION FOR  
SPECIAL PERMIT #1985 FOR ATHEY PAINTING  
9400 YANKEE HILL ROAD, CHENEY, NEBRASKA

We the undersigned residents within Cheney, consent to the Special Permit #1985 for the reconstruction and expansion of the Non-Conforming Use of Athey Painting located at 9400 Yankee Hill Road, Cheney, Nebraska.

NAME

STREET ADDRESS

Jill L. Brunning 8737 Lincoln St.

Judith Wilber 8801 Lincoln St

Carol B. Wecker 8801 Lincoln St.

~~Scott C. [unclear]~~ 8823 Lincoln #2

Cynthia [unclear] 8823 Lincoln St #2

~~Ray J. [unclear]~~ 9501 CHESTER CHENEY

Brian Janice 9511 Chestnut St Cheney.

M. Barnore 9521 Chestel St Cheney

Anne L. Downey 9531 Chester St. Cheney

Richard E. Downey 9531 Chester St. Cheney

~~Randy [unclear]~~ 9541 Chestnut St Cheney

Marlene Kotcher 9601 Chester Cheney 68526

Bob Swift 9621 Chester Cheney 68526

Doug Laugel 9670 Chester St. Cheney 68526

Maria F. Gangel 9620 Chester St, Cheney 68526

Kirk Staff 9600 Chester St. Cheney 68526

Randy Uchaska 9530 Chester St Cheney. NE 68526

Jheneva [unclear] 9530 Chester St Cheney NE 68526

PETITION FOR  
 SPECIAL PERMIT #1985 FOR ATHEY PAINTING  
 9400 YANKEE HILL ROAD, CHENEY, NEBRASKA

We the undersigned residents within Cheney, consent to the Special Permit #1985 for the reconstruction and expansion of the Non-Conforming Use of Athey Painting located at 9400 Yankee Hill Road, Cheney, Nebraska.

NAME	STREET ADDRESS
Alice Bower	9340 3rd
Ray Hoop	9301 Bergen
Dawn Schrock	231 Lincoln St.
Rinda Schren	231 Lincoln St.
Carson Moon	9430 2nd St
Emelyn Moon	9430 2nd Street
Alice Bower	9346 3rd St.
Jerry & Bevch	9531 Burton St.
Ed King	9541 Burton St
Philip Tyree	9601 Burton
Kristin Lyke	9601 Burton St.
Kristin K. Farny	9611 Burton St.
S. R. King	9611 BURTON ST.
Donna King	9621 BURTON ST
Rhonda Menagh	9621 Burton St
Maureen Menagh	9621 Burton St.
P. J. Christens	9620 Burton St.
Kelly Dickmann	9510 Burton

PETITION FOR  
SPECIAL PERMIT #1985 FOR ATHEY PAINTING  
9400 YANKEE HILL ROAD, CHENEY, NEBRASKA

We the undersigned residents within Cheney, consent to the Special Permit #1985 for the reconstruction and expansion of the Non-Conforming Use of Athey Painting located at 9400 Yankee Hill Road, Cheney, Nebraska.

NAME	STREET ADDRESS
<i>Jeff Kuntz</i>	9510 Chester
<i>David S. Pringle</i>	
<i>Kathy Mueller</i>	9500 Chester
<i>Herb Jochaus</i>	9340 Yankee Hill Rd.
<i>Patricia Stricker</i>	8401 Showers
<i>Angela Kendall</i>	8401 Showers
<i>Mary Ellen Comby</i>	8331 So 91
<i>Doreen J. Lawson</i>	8331 So 91
<i>Audrey J. Nicholson</i>	9245 Yankee Hill Rd.
<i>Scott Nicholson</i>	9245 Yankee Hill Rd
<i>Jean Rogner</i>	9330 E. 2nd
<i>Walter E. O'Brien</i>	8630 Showers
<i>Steven Puyko</i>	8705 Lincoln St.
<i>Angie Papirel</i>	8705 Lincoln St
<i>Rafael Mueller</i>	4500 Chester ST
<i>Suzanne Mueller</i>	9500 Chester St
<i>Vernon Gayle Hanshaw</i>	9420 THIRD ST.
<i>Bob Schaub</i>	9301 Third St

**BOARD OF DIRECTORS**

**President:**  
Gayle Hanshaw  
423-4448  
**Vice-president:**  
Msgr. James Dawson  
328-8480  
**Secretary:**  
Virgil Ganzel  
421-6531  
**Treasurer:**  
Kathy Rentschler  
423-8210  
**Asst. Secretary**  
Ken Royal

**COMMITTEES**

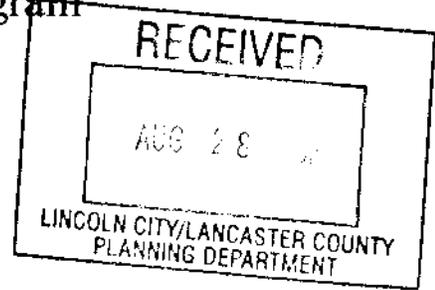
**Adopt-a-road:**  
Gayle Hanshaw  
423-4448  
**Community Liter P/U  
& meeting signs:**  
Marv Navratil  
423-3674  
**Civil Defense:**  
Bob Swift  
421-3021  
**Newsletter:**  
Mavis Ganzel  
421-6531

# C H E N E Y

## Community Improvement Program

August 26, 2002

Jean Walker  
Lincoln-Lancaster County Planning Department  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508



Re: Application by Alonzo "Lonnie" Athey for a Special Permit to expand and reconstruct his painting business office and shop in Cheney, which was recently destroyed by fire.  
SPECIAL PERMIT NO. 1985.

Dear Jean,

A meeting was held on August 20, 2002, in the Cheney Methodist Church to which all members of the community of Cheney were invited to hear and discuss Mr. Athey's plans. Mr. Athey and his representative Brian Carstens of Brian Carstens and Associates presented to the group in attendance, approximately 50 +/-, two options they were considering. Option one would be to rebuild utilizing at least 40% of the previous structure; or, option two would be to apply for a special permit to expand and reconstruct on the existing site, but, with an all new steel structure.

Option two, which Mr. Athey stated he preferred, received some questions of concern regarding what uses a future owner of the property might choose to do either on the existing property, or, in combination with adjoining properties. Mr. Athey stated he would like to address those concerns by having restrictions included with the permit limiting uses to contractors' office and storage, including electrical, plumbing, heating and air-conditioning contractors.

Abby Davis from the Planning Department was in attendance and voiced doubt that those specific restrictions could legally be imposed.

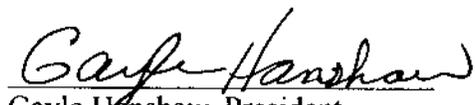
There weren't any voices of opposition to Mr. Athey rebuilding and continuing his painting business in Cheney. In fact, it was stated and restated by members of the audience complimenting Mr. Athey on having been a good neighbor in the community.

So, it is with full knowledge that the City of Lincoln can not, or, will not impose those additional restrictions that the Community of Cheney, for the most part, does support the granting of a special permit to Mr. Athey as requested.

Please forward this letter to the Planning Commissioners and any other appropriate parties.

If there are any questions, or, anything additionally is needed, please call me:  
phone: (work) 472-7639 (home) 423-4448.  
e-mail: VGHanshaw@aol.com

Sincerely,

A handwritten signature in cursive script that reads "Gayle Hanshaw". The signature is written in black ink and is positioned above the printed name.

Gayle Hanshaw, President  
Cheney Community Improvement Program  
9420 Third Street  
Cheney, NE 68526

cc. Alonzo Athey  
Brian Carstens  
Cheney CIP Directors



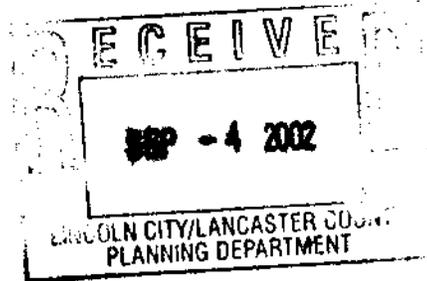
Southwicks@aol.com  
09/04/2002 07:32  
AM

To: mdekalb@ci.lincoln.ne.us  
cc:  
Subject: Athey Painting Special Permit

September 3, 2002

Mr. Mike Dekalb  
Planning Department  
City of Lincoln/Lancaster County

RE: Athey Painting, Inc. Special Permit



Dear Mike,

As former community residents of Cheney we would like to make a few observation on behalf of Athey Painting rebuilding. Athey Painting, Inc is a good citizen for the community of Cheney.

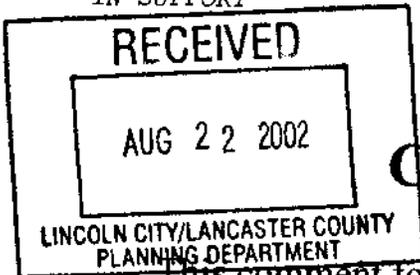
Mr. Athey has gone above and beyond to appease the community members over the years. If a concern arises by a resident then he address it and finds a solution to the best interest of the community first. Mr. Athey has demonstrated over the years of putting the Cheney Community first priority. He promotes the Village of Cheney through his business. Mr. Athey has exhibited this during many acts of kindness he has performed in the community during the winter he removes snow from the streets. He pitches in and helps a neighbor if needed. How many neighbors pitched in and help him? Is this not what community neighbors do?

We know Mr. Athey has thought this through of rebuilding in the Community of Cheney. The good and the bad of the community ways very strongly in his decision. We are delighted that he is wanting to rebuild in Cheney. This speaks for itself. Mr. Athey is not only looking at today but also into the future of the Community. Progress is just across the highway. The tract where Athey Painting is located at is subject to much debate in the coming years of land use. It was designated as Urban Residential. The citizens of Cheney want to see a Community Unit Plan for the whole area use, whether it be Residential or Commercial. They just don't want any more pieced zoning to decree what can or can't be added in the future until a whole area plan can be decided. This area already has commercial zoning in and abutting the direct area. This area also has residential in and abutting the dire! ct area. **This factor alone was why it is designated urban residential.** Potential developers can always get zoning changes with approve plans.

Athey Painting's proposed reconstruction and expansion will not hinder this goal. It will be an asset to the community progression. Mr. Athey takes pride in what he has accomplished personally and in business. It would be a terrible shame not to maintain existing small business and prevent it from future growth by denial of the special permit. We thought the Lincoln/Lancaster Community encourages small business to grow? We see so many big business get breaks when they expand or build. We hope the Planning Commission and the City Council will take this into consideration and the undecidedness of the Cheney Community as a whole when making a decision.

Sincerely,  
Mark & Julie Southwick

1953 Independence Ct  
438-9209  
Former Resident: 8301 S 91st St



# CHENEY COMMUNITY

This comment form is intended for you to provide a few of your thoughts regarding the reconstruction and expansion of Athey Painting in Cheney. **Please take a few moments to provide your thoughts.**

Athey Painting came to town a  
 community in 96 which help this  
 community improve its appearance and  
 added life to community, and on the  
 other hand Lonnie is trying to improve  
 his business by reconstructing the building  
 to be more acceptabl and improve his  
 company in order to kept up with his  
 customer demands so let him build  
 the way he would like to kept his  
 employees happy and safe

Bob Cockerham

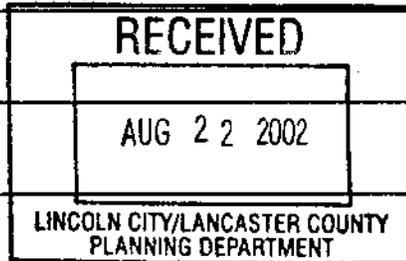
Bob Cockerham

9445 Soute First Stret, Route 8  
Lincoln, NE 68526-5326

# CHENEY COMMUNITY

This comment form is intended for you to provide a few of your thoughts regarding the reconstruction and expansion of Athey Painting in Cheney. **Please take a few moments to provide your thoughts.**

*We want to comment Louie Athey  
for wanting to rebuild in Cheney and  
are in favor of him enlarging a  
new building.*



No Name

8331 South 91st Street  
Lincoln, NE 68526

## CHENEY COMMUNITY

This comment form is intended for you to provide a few of your thoughts regarding the reconstruction and expansion of Athey Painting in Cheney. **Please take a few moments to provide your thoughts.**

Athey Painting joined Cheney in Oct. 1996 and we have had no problems (his drivers are very respectfull). We reside directly across the street south. We have been here since 1986. He and his company have done things for the community. Pushes snow also keeps front mowed. We donot think the expansion will hurt anything - it will help look and help him with delivers. at first we were concerned about future land use but need to face present and no one knows the future - face each issue as it comes.

RECEIVED

AUG 22 2002

LINCOLN CITY/LANCASTER COUNTY  
PLANNING DEPARTMENT

Jane Cockerham

9445 First St., Rt. 8  
Lincoln, NE 68526-9326

041

RECEIVED

AUG 26 2002

LINCOLN CITY/LANCASTER COUNTY  
PLANNING DEPARTMENT

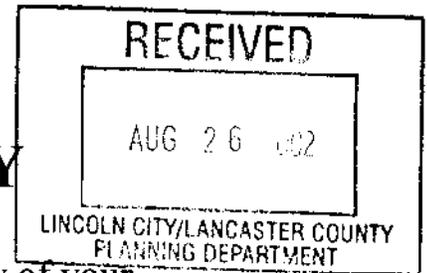
# CHENEY COMMUNITY

This comment form is intended for you to provide a few of your thoughts regarding the reconstruction and expansion of Athey Painting in Cheney. **Please take a few moments to provide your thoughts.**

We feel that Athey Painting should  
rebuild and expand the building for the  
future of our community.

No Name  
9610 Chester  
Cheney, NE 68526

# CHENEY COMMUNITY



This comment form is intended for you to provide a few of your thoughts regarding the reconstruction and expansion of Athey Painting in Cheney. Please take a few moments to provide your thoughts.

We approve of Mr. Athey's plans to rebuild and keep his business in Cheney. He is a good citizen, keeps his place of business neat.

We also approve of his enlarging from the original dimensions. There is plenty of space and a well-kept building is better than an unused area.

There seem to be a few people in the community who want to keep any businesses out of the area. Considering the building going on across highway #2 from us, we think such an attitude is very unrealistic. A neat, well-run business is far superior to unkept lots, illegal dumping and late night vehicles coming and going.

We would "vote" yes on all Mr. Athey's plans for development.

# CHENEY COMMUNITY

RECEIVED  
AUG 26 2002  
LINCOLN CITY/LANCASTER COUNTY  
PLANNING DEPARTMENT

This comment form is intended for you to provide a few of your thoughts regarding the reconstruction and expansion of Athey Painting in Cheney. **Please take a few moments to provide your thoughts.**

ATHEY PAINTING HAS NOT BEEN ANY DISRUPTION  
TO THE COMMUNITY. I FEEL THAT HE SHOULD BE  
ALLOWED TO REBUILD AND/OR EXPAND THE BLDG.  
TO ENHANCE HIS BUSINESS AS LONG AS THE RESTRICTIONS  
ON LAND AND BUILDING LIMIT THE NEXT BUSINESS  
IN THE EVENT OF HIS RETIREMENT, OR ANY  
REASON HE MAY SELL. THESE LIMITS SHOULD  
NOT CAUSE ANY MORE DISRUPTION THAN ATHEY  
PAINTING. I WOULD SUPPORT RESTRICTIONS  
TO ENSURE THESE LIMITS.

Sincerely  
Ernest F. Paster

## CHENEY COMMUNITY

This comment form is intended for you to provide a few of your thoughts regarding the reconstruction and expansion of Athey Painting in Cheney. Please take a few moments to provide your thoughts.

I am writing today to let you know I have no problem with Mr. Athey rebuilding his business. However, I am against increasing the size of his building. My feelings are that once he makes this bigger increasing to a very large commercial or industrial business, that should he sell it would just get out of hand in Cheney. I'm against any more commercial businesses here in our community. I have lived here for 25 years, and there have already been way too many changes in the past year with Lincoln edging our way.

Sincerely

Debra L. Marlar

045

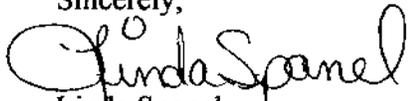
August 24, 2002

## CHENEY COMMUNITY

This comment form is intended for you to provide a few of your thoughts regarding the reconstruction and expansion of Athey Painting in Cheney. **Please take a few moments to provide your thoughts.**

My concerns on the reconstruction and expansion of Athey Painting in Cheney are based on the work of this community during the planning of the New Subarea Plan for Southeast Lincoln/Highway 2. The community did a petition drive that clearly stated the land use we requested as Urban/Residential. This zoning was approved by the Planning Department and City Council on the acceptance of the new Subarea Plan. I realize that the fire that destroyed Athey Painting's building was very unfortunate and out of his control. I also know that Mr. Athey purchased this property under a grandfather clause that clearly stated he would be unable to rebuild if this type of tragedy occurred. To allow an expansion of this size would not be in the best interest to our community. It lengthens the life of the grandfather clause and also allows a larger business to come in and operate in the larger facility if or when Mr. Athey decides to retire or sell. Mr. Athey told us at a community meeting that was held on August 20, 2002 that he doesn't plan on retiring for at least 10 years. Yet several weeks ago Mr. Athey addressed the City Council on a matter that I believe involved his personal residence where he told City Council that he would be retiring within a few years and moving. So where does this leave our community? We have a larger new building with a grandfather clause that allows numerous types of business in an area that is designated for Urban development. The city has already approved plans that remove the main entrance to our community, they have approved the Andermatt development, and also allowed large utility lines that the 84<sup>th</sup> Street community did not want along their street to be put along our community. I'm concerned about the development and growth occurring around our community. I am asking you the Planning Department and the City Council to help us in our efforts to keep the community an Urban/Residential place to live. Thank you for your time and consideration.

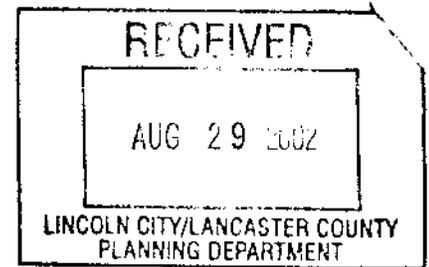
Sincerely,



Linda Spanel

Cheney Community Resident

8440 So 91<sup>st</sup> St



## CHENEY COMMUNITY

This comment form is intended for you to provide a few of your thoughts regarding the reconstruction and expansion of Athey Painting in Cheney. **Please take a few moments to provide your thoughts.**

My name is Chuck Spanel. My wife and I own a home and business that is located in Cheney. Our business, Spanel Engines, Inc., is located at 8400 South 91<sup>st</sup> Street, with our home at 8440 South 91<sup>st</sup> Street. Our business is on property zoned I-1, and has been this way for 10 years.

I have a concern with the rebuilding of Athey Painting here in Cheney. Athey painting was very unfortunate to have this type of thing happen, but I must voice my concern as a homeowner here in Cheney. I know my I-1 zoning doesn't give me a voice for the zoning in Cheney, but as a homeowner that plans to stay here, I feel it is necessary to provide my thoughts.

Athey painting wanting to rebuild is not a problem for me. Although, the size of the new building could be. He says he doesn't plan to sell or retire in the near future, but he didn't plan on a fire either. If Mr. Athey sells his property with an 11,000 square foot building on it, it gives more of a chance for a different large business to come in. And what will the next business be?

From past experiences with Carstens and Associates, I can't trust what they tell me. Brian Carstens and Mr. Schwartz, who owns the property next to Athey painting, came in on March 25, 2001 and offered to pull the I-1 zoning away from my business, Spanel Engines, Inc. For this reason I lost all trust in Carstens, Schwarz, and Mr. Athey.

Please try to understand my view on this. I don't have a problem with him rebuilding, just the size of the new building that he could sell and allow other types of businesses to come in.

Sincerely,

A handwritten signature in cursive script that reads "Charles E. Spanel".

Chuck Spanel  
Cheney Resident

## CHENEY COMMUNITY

This comment form is intended for you to provide a few of your thoughts regarding the reconstruction and expansion of Athey Painting in Cheney. **Please take a few moments to provide your thoughts.**

*As a resident of Cheney, NE. I'm  
am opposed to the expansion of Athey  
Painting Co. building. There is not a  
need to make it bigger (the building).  
The same size is fine.*

*The fear is of something bigger when  
Athey leaves in a short time.*

M. Marlar  
9540 Burton St.  
Cheney, NE 68526

RECEIVED

SEP - 4 2002

CITY OF LANCASTER  
PLANNING DEPARTMENT

Lela Bade  
407 Showers R. F. D. 8  
Lincoln, Nebraska 68506

Planning Commission

Re - Special permit # 1985  
S 94 Mt + Yankee Hill Rd.

Gamwin family of Athey's painting  
rebuilding on their property that  
burned. However I am not in

favor of expanding the building  
larger than it is. There is

vacant property along that street  
and I feel it would only encourage

more large businesses. I line  
across the road on the street.

and would not be best here  
that across from my home. There is

for your consideration. Lela Bade  
8501 Showers.



Lincoln Lane Planning Dept.

RECEIVED  
AUG 27 1985  
LINCOLN CITY/LANCASTER COUNTY  
PLANNING DEPARTMENT

555 So 10th  
#213

Lincoln, NE

68508

RE Abby Davis